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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,464	10/09/2003	Valery Kanevsky	10021270-1	9219

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AGILENT TECHNOLOGIES, INC.  
Legal Department, DL429  
Intellectual Property Administration  
P.O. Box 7599  
Loveland, CO 80537-0599

EXAMINER
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CHERRY, STEPHEN J

ART UNIT	PAPER NUMBER
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2863

MAIL DATE	DELIVERY MODE
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04/22/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/682,464

**Applicant(s)**

KANEVSKY ET AL.

**Examiner**

Stephen J. Cherry

**Art Unit**

2863

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-19, 22 and 25 is/are rejected.
- 7) ☒ Claim(s) 20-21, and 23-24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-19, 22 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 2 344 026 to Spicer.

Regarding claim 13, Spicer discloses s measurement method using mobile probes comprising:

providing a model to a mobile measurement device ('026, page 4, line 21 and page 6, line 17);

making measurements of model variables with said mobile measurement device ('026, page ('026, page 5, line 18 and page 6, line 16);

evaluating, by said mobile measurement device, new measurements, using said model ('026, page 6, line 1 and page 6, line 19); and

augmenting said model using said new measurements ('026, page 6, line 7 and abstract, "use by both user and service provider" requires that ability condition was saved and made available to both user and service provider, thereby augmenting provided model).

Regarding claim 14, and in view of the rejection of claim 13, Spicer discloses the method of claim 13 wherein said model on said mobile measurement device is augmented ('026, page 6, line 7 and abstract, "use by both user and service provider"

requires that ability condition was saved and made available to the model in the mobile device, thereby augmenting the model).

Regarding claim 15, and in view of the rejection of claim 13, Spicer discloses the method of claim 13 wherein a model in a measurement system that provided said model to said mobile measurement device is augmented ('026, page 6, line 7 and abstract, "use by both user and service provider" requires that ability condition was saved and made available to the service provider, thereby augmenting the service provider model model).

Regarding claim 16, and in view of the rejection of claim 13, Spicer discloses the method of claim 13 wherein said model provided to said mobile measurement device comprises a portion of a central measurement system model ('026, page 4, line 22, and page 6, line 17).

Regarding claim 17, and in view of the rejection of claim 13, Spicer discloses the method of claim 13 wherein said evaluating further comprises determining if the new measurements reinforce said model, and said augmenting comprises noting said reinforcement in said model ('026, page 6, lines 1-12, storage of "ability" condition resulting from comparison, positive comparison results are interpreted as reinforcing the model).

Regarding claim 18, and in view of the rejection of claim 13, Spicer discloses the method of claim 13 wherein said evaluating further comprises determining if the new measurements detract from said model ('026, page 6, lines 1-12, storage of "ability" condition resulting from comparison, negative comparison results are interpreted as detracting from the model).

Regarding claim 19, and in view of the rejection of claim 18, Spicer discloses the method of claim 18 wherein said evaluating further comprises evaluating the accuracy of a detracting measurement ('026, page 6, line 19, determination of confidence).

Regarding claim 22, and in view of the rejection of claim 19, Spicer discloses the method of claim 19 further comprising adding new measurements to said model when said new measurements improve said model ('026, page 6, line 7).

Regarding claim 25, and in view of the rejection of claim 13, Spicer discloses the method of claim 13 wherein said mobile measurement device comprises:

communication capabilities for communicating said measurements and an augmented model to a measurement system ('026, page 6, line 7, results retrieved at later time by service provider requires communication capabilities);

computational resources available for carrying out said evaluation; and measurement capability ('026, page 5, line 15, "processor 204").

***Allowable Subject Matter***

Claims 20-21, and 23-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and to overcome other claim objections.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 20 recites, "discarding faulty measurements". This feature, in combination with remaining claim limitations, overcomes the prior art of record.

Claim 21 recites, "replacing existing measurements in said model with measurements that improve said model". This feature, in combination with remaining claim limitations, overcomes the prior art of record.

Claim 23 recites, "said evaluating further comprises determining if data in said model for a location of a new measurement is sufficient, and adding said new measurement to said model in response to said model having insufficient data for said location of said new measurement". This feature, in combination with remaining claim limitations, overcomes the prior art of record.

Claim 24 recites, "wherein said mobile measurement device is a wireless telephone, said variable is an RF field strength at a location and said model is a model of RF field strength for a geographical area". This feature, in combination with remaining claim limitations, overcomes the prior art of record. It is noted that Spicer discloses a system for confirming an ability of a user to receive a signal; however, in a

wireless telephone, the central facility is always aware of communication with remote devices.

### ***Response to Arguments***

Applicant's arguments filed 1-31-2008 have been fully considered but they are not persuasive. Applicant argues that Spicer does not disclose augmenting a model with new measurements; however, at page 6, line 7 Spicer discloses information regarding the BER of a mobile device is provided from the mobile device to the service provider. The BER is a characterization of the communication ability of the mobile device, therefore it is considered a model because it is a characterization of a physical system. Because new information is provided to the service provider by the mobile device, the model is considered to be augmented.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Cherry whose telephone number is (571) 272-2272. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SJC

/Bryan Bui/



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Primary Examiner, Art Unit 2863